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STATEMENT ON THE TREATY OF FRIENDSHIP, COMMERCE AND NAVIGATION BETWEEN THE UNITED STATES AND ITALY SIGNED AT ROME, FEBRUARY 2, 1948

Mr. Chairman:

The treaty of friendship, commerce and navigation with Italy which the Committee is now prepared to consider is the second post-war treaty of this type which the Department of State has negotiated - that with China, also before the Committee, being the first. The conclusion of these two treaties represents significant progress in an extensive program which the Department has undertaken with the objective of expanding and modernizing this country's network of commercial treaties. Although there are now in effect more than a score of these general commercial treaties, many of them may be considered as antiquated, several having been concluded in the first half of the last century. Many of those of more recent date are not well adapted in all respects for meeting present-day needs with regard to economic, cultural, and other intercourse between nations. Between the United States and a number of countries, including Italy, there are no treaties of this type now in effect.

It is a happy circumstance that the first post-war treaty of friendship, commerce and navigation to be made by the United States with a European nation should have been concluded with the new Italian Republic, and that Republican Italy's first general treaty should be with the United States. Negotiated

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in an atmosphere of the most cordial friendship and based upon the principle of mutuality, this treaty confirms Italy's adoption of liberal principles of international economic intercourse, and is evidence of the intent of the Italian Government to accord fair and non-discriminatory treatment to foreign economic enterprise.

Obviously, the provisions of treaties of this type which the United States concludes with all other countries will be basically similar. In the hearings on the treaty with China before this Committee on April 26, the Department presented an extensive statement of policy with regard to this type of treaty, and a summary of the treaty articles, and explanatory statements on a number of provisions. Much of the information submitted at that time is also applicable in connection with the consideration of the treaty with Italy, and it is thought that it will be unnecessary to burden the record with a repetition of those statements.

There are, however, some important differences between the two treaties to which I should like to refer. The treaty with Italy contains a number of provisions not found in the treaty with China. Among these are clauses relating to freedom of information (Article XI), non-discrimination in the application of certain compulsory insurance laws (Article XII), a provision for the waiving of the immunities of publicly owned

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or controlled enterprises carrying on business activities (Article XXIV, paragraph 6), and a provision that rights enjoyed by the publicly owned or controlled enterprises of one party shall be extended by that party, with certain exceptions, to the private business enterprises of the other party.

I believe that this is the first treaty to come before the Senate which contains specific provisions for giving effect internationally to the ideal of freedom of information. The Congress of the United States formally indorsed the principles of freedom of information in a Joint Resolution adopted in 1944 (58 Stat. (pt. 2) 1119), and the United Nations Conference on Freedom of Information at Geneva has recently completed formulation of recommendations for dealing with this subject on a multilateral basis. The provisions in the present treaty set forth a minimum standard of treatment adapted for inclusion in bilateral treaties of this sort, which should provide worthwhile protection for United States nationals engaged in informational activities. The provision is as follows:

> "The High Contracting Parties declare their adherence to the principles of freedom of the press and of free interchange of information. To this end, nationals, corporations and associations of either High Contracting Party shall have the right, within the territories of the other High Contracting Party, to engage in such activities as writing, reporting and gathering of information

dissemination to the public, and shall enjoy freedom
transmission of material to be used abroad for publi-
tion by the press, radio, motion pictures, and other
means. The nationals, corporations and associations of
either High Contracting Party shall enjoy freedom of
publication in the territories of the other High Con-
tracting Party, in accordance with the applicable laws
and regulations, upon the same terms as nationals,
corporations or associations of such other High Con-
tracting Party. The term 'information', as used in this
paragraph, shall include all forms of written communi-
cations, printed matter, motion pictures, recordings
and photographs."

The provisions relating to the treatment to be accorded corporations are somewhat more liberal in the treaty with Italy than in the treaty with China. In the former, the standard of national treatment for the carrying on of enumerated types of activities is clearly stipulated, whereas in the treaty with China that standard is somewhat limited. The rights for the nationals and corporations of one country to participate in, manage, and control domestic corporations of the other are also less restricted in the treaty with Italy.

Nationals and corporations of the United States are to be accorded national treatment in Italy with respect to the acquisition and holding of real property. This is a provision of unusual liberality in an American treaty and is a singular evidence of good will on the part of Italy, since national treatment is accorded without prejudicing the right of the States of the United States to freely regulate landholding. The treaty permits Italy, of course, to refuse to accord

national treatment to the citizens and corporations of States which deny national treatment to nationals and corporations of Italy.

The protection of foreign private investments in the face of the very obvious trend in many parts of the world toward nationalization of industry, extension of public control over certain industries, and the participation of the State in industrial enterprises is a matter that is receiving more and more attention, not only by the Government departments concerned but by business men interested in foreign investment. The present treaty with Italy contains provisions designed to increase the protection usually afforded by a treaty of this type. There is, of course, the usual provision for the payment of just and effective compensation for property taken into public ownership or control. Provision is also made, as in the treaty with China, for the transfer of the compensation paid to an expropriated person into the currency of the country of which he is a national. In this treaty there has been included for the first time, as previously mentioned, some rules designed to provide additional protection for private investments. In Article V, it is provided that in all matters relating to the taking of privately owned property into public ownership or control, the nationals and corporations of one country within the territories of the

other shall receive treatment no less favorable than that accorded by such country to its own nationals and corporations, or those of any third country. This clause is, of course, designed to prevent the alien from being singled out for unfavorable treatment in case of a nationalization program.

In addition to the danger of being expropriated, a serious danger faced by American private enterprise abroad is that of being subjected to unfair competition from state owned or controlled enterprises. In this treaty, an effort is made to deal with this problem by providing that, with certain exceptions, special favors granted by one country to its publicly controlled business enterprises shall be extended also to the private enterprises of the other in situations in which the public enterprises operate in fact in competition with private enterprises. Somewhat related to this provision is another which provides that no publicly owned or controlled enterprise of one country, if it engages in business activities within the territories of the other, shall claim for itself or its property, immunity from taxation, from suit, from execution of judgment, or from any other liability to which a privately owned or controlled enterprise is subject therein.

There are a few subjects dealt with in the treaty with China that are not covered in the treaty with Italy. There are no provisions here dealing with the reception of diplomatic

representatives, the recognition of agreements and awards in commercial arbitration, the protection of literary and artistic property, and adherence to a program designed to expand international trade. These matters are dealt with in Articles I, VI, IX, and XV respectively of the treaty with China. The first and last of these subjects are not considered as of consequence in a treaty with Italy. As to commercial arbitration, the Italian negotiators felt that the provision which we had included in the China treaty was not well adapted for application under Italian law. As to copyright matters, the two Governments concluded that their relations based upon proclamations issued under their respective laws in 1910 were satisfactory and that no treaty provision would be necessary.

A number of provisions in the treaty with Italy have been restated in language somewhat different from that in the treaty with China. The objective has been to clarify the language or to make the provision more explicit. Examples are the article relating to internal taxation (Article X in the China treaty, IX in the treaty with Italy), and the Article relating to exchange controls (Articles XIX and XVII respectively in the Chinese and Italian treaties). There are, of course, a number of minor differences in phraseology and substance between the two texts that have not been referred to above.

In negotiating the treaty with Italy, it was necessary to give special consideration to the grave economic situation facing Italy as a result of the war, and the present inability of Italy to supply, unassisted, the minimum needs of its people or the minimum requirements of economic recovery. Accordingly, there has been attached to the treaty a protocol, the purpose of which is to relax under certain conditions some of the rules of the treaty, such as those relating to quantitative restrictions on imports and exports, in order to enable Italy to protect its international-payments position and obtain the essential needs of economic recovery.

The Department of State regards this treaty as a very favorable one from the standpoint of American interests. Prompt ratification would not only have the effect of affording immediate treaty protection for American interests in Italy, but would also further strengthen our cordial relations with the government and people of Italy. The announcement of the signature of the treaty on February 2 was particularly well received by the Italian press and public. As soon as this treaty is ratified, the Department will have an approved and secure base from which to proceed in attempting to negotiate similar treaties with other nations.